





MEMORANDUM

Milpitas Police Department

DATE: November 28, 2018

TO: Honorable Mayor and City Council

THROUGH: Julie Edmonds-Mares, City Manager 

FROM: Armando Corpuz, Chief of Police 

SUBJECT: Review of City of Milpitas Resolution No. 8236 as it Relates to the December 2nd Event at the Indian Community Center

On November 20, 2018, two Milpitas residents spoke during the City Council's public forum to voice their objection to Vietnamese singer Dam Vinh Hung's appearance at the Indian Community Center (ICC), on December 2, 2018. The two residents, Ms. Há Phan and Ms. Van Lan Truong, alleged that Mr. Hung is a Communist and he is compelled, per City of Milpitas Resolution No. 8236, to notify the City of Milpitas of his appearance 14-days prior to his appearance.

Mayor Tran and Councilmember Nuñez directed staff to review the resolution and report back to the City Council.

City of Milpitas Resolution No. 8236

The City Council adopted Resolution No. 8236, on March 5, 2013, and it directs the Police Chief to implement a policy requiring advanced notice of visits from delegations from the Socialist Republic of Vietnam. The emphasis in the resolution is:

1. The City Council does not condone high-profile visits by representatives and officials of the Socialist Republic of Vietnam government within Milpitas.
2. The City Council is opposed to using City funds and resources in a manner that promotes visits from the Socialist Republic of Vietnam delegations to Milpitas. The Resolution, however, permits the Chief of Police to implement measures to ensure community safety.
3. The City Council directed the Chief of Police to implement a policy seeking a 14-day notice of visits from the Socialist Republic of Vietnam government delegations.
4. The City Council directed the Chief of Police to report such planned visits to the City Council.
5. The City Council directed the Chief of Police to prepare an invoice for services when organizers do not provide the 14-day notice. The invoice must be presented to the City Council for approval.

The Milpitas Police Department does not have written policy requesting the 14-day notice and I am unaware of any occasion where we have reported such visits to the City Council. We will take the necessary steps to implement a policy that is compliant with this resolution.

December 2, 2018 Concert at ICC

On October 22, 2018, Mr. Hanson Nguyen emailed the Milpitas Police Department stating he is a Milpitas resident, conveyed he represented a group that was hosting an entertainment event at the ICC, and indicated he would like to hire police officers to work the event to ensure safety for the performers. Mr. Nguyen was informed that Milpitas Police Officers do not work off-duty security events.

During additional correspondence with Mr. Nguyen, our staff learned that Mr. Nguyen was concerned over protests at the event because one of the artist is from Vietnam and some community members had a "misunderstanding" over the performer's political views.

Performances will begin at 7:30 p.m. and end at midnight. Several singers will perform, including Mr. Dam Vinh Hung, and attendance will likely exceed 400 patrons. I have attached a flyer promoting the event.

The ICC staff acknowledged they are receiving requests to cancel the event but the ICC staff does not intend to stop it. In order to ensure attendee safety, the promoter has hired six (6) off-duty San Jose Police Officers and six (6) security guards. We will have six (6) officers available to intervene, if public safety concerns arise.

Conclusion

Our staff completed an internet search on Mr. Dam Vinh Hung and reviewed additional information available to us. We could not locate evidence that Mr. Hung is a Socialist Republic of Vietnam delegate or find evidence that he is linked to their government. Therefore, Police Department staff could not find evidence that City of Milpitas Resolution No. 8236 applies to Mr. Hung's visit to Milpitas. If new information arises, we will evaluate it to determine whether or not the promoter was compliant with the resolution.

It is imperative that our staff respect the rights of all stakeholders. We will continue working with event organizers, the ICC staff, and protest organizers to ensure public safety.

Please let me know if you have any questions.

Encl: Copy of City of Milpitas Resolution No. 8236
Copy of Promoter's December 2, 2018 Event Flyer

RESOLUTION NO. 8236

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS DIRECTING THE CHIEF OF POLICE TO IMPLEMENT A POLICY REQUESTING PRIOR NOTICE OF VISITS OF DELEGATIONS FROM THE SOCIALIST REPUBLIC OF VIETNAM

WHEREAS, the Council has received a Petition from the Vietnamese American Community of Northern California requesting adoption of a resolution requiring the Police Chief to implement a policy seeking prior notice of visits from delegations from the Socialist Republic of Vietnam; and

WHEREAS, the Petition cites examples of where such visits have in the past caused political disruption in other communities requiring increased police services and causing additional expense to those communities for provision of those services; and

WHEREAS, in the event that visits from Socialist Republic of Vietnam delegations to the City of Milpitas do create a need for additional police services in order to protect the public health and safety, it would reduce or eliminate added expense for provision of those services if at least 14 days prior notice were given to the City to plan for such event; and where failure to provide 14 days prior notice would likely result in unexpected additional expenditures for police services; and

WHEREAS, the need for unexpected additional police services resulting from political disruption caused by inadequately noticed visits from the Socialist Republic of Vietnam is a preventable event and therefore inadequately noticed unexpected visits from the Socialist Republic of Vietnam predictably will result in political disruption injurious to health and unlawful obstruction of streets, sidewalks and public spaces constituting a public nuisance and the costs thereof should be borne by the outside organizer, agency or jurisdiction sponsoring the visit and who failed to give adequate notice of such visit; and

WHEREAS, under the California Environmental Quality Act (CEQA), this action is considered exempt as there is no possibility that it will have an impact upon the environment; and

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Council of Milpitas does not condone or sanction high-profile visits, stopovers, or drive-bys by representatives and officials of the Socialist Republic of Vietnam government or that of any delegations affiliated with or organized by the same within the physical boundary of the City of Milpitas.
3. The City Council of Milpitas is opposed to the expenditure of much needed City funds and resources in a manner that promotes visits from the Socialist Republic of Vietnam delegations to Milpitas. This policy statement does not prevent the Chief of Police or other affected security manager of the City from taking appropriate security and public safety measures for the community.
4. The City Council of Milpitas hereby directs the Chief of Police to implement a detailed "PRIOR NOTICE" policy of requesting outside organizers, agencies and jurisdictions to inform on the nature, purpose and duration of visits, drive-bys, or stopovers of government delegations and affiliated groups from the Socialist Republic of Vietnam, at least fourteen (14) calendar days before such occurrence.
5. The City Council of Milpitas further directs that the Police Chief at the earliest available opportunity, report to the Mayor and all Council Members of such visits, drive-bys, or stopovers, once the notification is made from the requesting organizer, agency or jurisdiction.
6. In the event an outside organizer, agency or jurisdiction fails to provide the 14-day "PRIOR NOTICE" described above in Section 3, the City Council of Milpitas directs the Police Chief to prepare an invoice for services for submission to the City Council for approval concerning police services rendered resulting from a visit or drive-by to the City of Milpitas by delegations or groups affiliated with the Socialist Republic of Vietnam government, for submission to the outside organizer, agency or jurisdiction.

PASSED AND ADOPTED this 5TH day of March 2013, by the following vote:

AYES: 4 *Esteves, Giordano, Montano and Polanski*

NOES: 0

ABSENT: 0

ABSTAIN: 1 *Gomez*

ATTEST:

Mary Lavelle
Mary Lavelle, City Clerk

APPROVED:

Jose S. Esteves
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz
Michael J. Ogaz, City Attorney

